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IN RE PATENT APPLICATION OF:

ALI

TITLE: RETRIEVAL OF DELETED VOICE MESSAGES IN VOICE MESSAGING SYSTEM

April 25, 2003

APPEAL BRIEF

Director of U.S. Patent and Trademark Office
Washington, D.C. 20231

Sir:

The Applicants submit herewith the following Appeal Brief in triplicate as required by 37 C.F.R. § 1.192.

(1) REAL PARTY IN INTEREST

The real party in interest is Agere Systems Inc.

(2) RELATED APPEALS AND INTERFERENCES

The Applicants and their legal representatives and assignee are not aware of any other appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the appealing appeal.

(3) STATUS OF THE CLAIMS

Claims 1-27 are pending in the application. Claims 1-27 stand rejected.

(4) STATUS OF ANY AMENDMENT FILED SUBSEQUENT TO FINAL REJECTION

The Applicants have not filed any amendment after final rejection.

(5) SUMMARY OF THE INVENTION

The present invention is directed to a voice messaging system that upon deletion of a voice message from a voice message memory, the voice message is stored in a deleted voice message memory. The deleted voice messages can then be retrieved from the deleted voice message memory for playback.

(6) CONCISE STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

(A) Whether claims 1-3, 12-14 22 and 23 are anticipated under 35 USC 102(e) by Checchio *et al.*, U.S. Patent No. 5,912,951 ("Checchio").

(B) Whether claims 4, 6, 15-18 and 24 are obvious under 35 USC 103(a) over Checchio in view of Pickett *et al.*, U.S. Patent No. 6,266,340 ("Pickett").

(C) Whether claims 5 is obvious under 35 USC 103(a) over Checchio in view of Pickett, and further in view of Sato, Japanese Patent No. 10-200634 ("Sato").

(D) Whether claims 7-9, 19 and 20 are obvious under 35 USC 103(a) over Checchio in view of Pickett, and further in view of Garson *et al.*, U.S. Patent No. 5,689,550 ("Garson"), and whether claims 25 and 26 are obvious over Checchio in view of Garson.

(E) Whether claims 10, 11, 21 and 27 are obvious under 35 USC 103(a) over Checchio in view of Newton, U.S. Patent No. 5,978,757 ("Newton").

(7) WHETHER THE CLAIMS STAND OR FALL TOGETHER

Group I: Claims 1-11 stand or fall together because each includes the following distinctive features:

- (1) upon deletion of a voice message from voice message memory, the voice message is moved and restored in deleted voice message memory.

Group II: Claims 12-21 stand or fall together because each includes the following distinctive features:

- (1) removing a deleted voice message, upon deletion from a first memory area, and storing the deleted voice message memory in a second memory area.

Group III: Claims 22-27 stand or fall together because each includes the following distinctive features:

- (1) removing a deleted voice message, upon deletion, from a first memory area, and means for storing the deleted voice message in a deleted voice message memory.

(8) ARGUMENTS WITH RESPECT TO THE ISSUES PRESENTED FOR REVIEW

(A) Claims 1-3, 12-14 22 and 23 are anticipated under 35 USC 102(e) by Checchio

Rejected claims 1-3 require that upon deletion of a voice message from voice message memory, the voice message is moved and restored in deleted voice message memory. Rejected claims 22 and 23 require removing a deleted voice message, upon deletion, from a first memory area, and storing the deleted voice message in a deleted voice message memory.

Checchio appears to disclose a voice mail system voice mail mailbox storing a plurality of messages and a pointer indicating a message in the message container (Abstract). After the voice mail system finishes playing the message to a user, the user is prompted to dispose of the message (Checchio, col. 5, lines 58-60). A user can select to delete the message, at which time the

message is deleted from memory (Checchio, col. 6, lines 16-24; Fig. 4, item 418; col. 5, lines 57-62). As an alternate to simply deleting the message, the message may be saved or forwarded (Checchio, col. 5, lines 61-63). Upon a user choosing to save a message, the message is deleted from its first storage location and stored elsewhere in the voice mail system (Checchio, col. 5, lines 64-66).

Checchio allows a user to either delete a voice message or save a voice message. A user choosing to save a message causes a save instruction to be issued that saves the message to save memory. A user choosing to delete a message causes a delete instruction to be issued that deletes the message permanently from memory. Checchio fails to teach any type deleted voice message memory. Moving a voice message to a save memory upon saving is NOT moving a voice message to a deleted voice message memory upon deletion, as recited by claims 1-3, 22 and 23.

Rejected claims 12-14 require removing a deleted voice message, upon deletion from a first memory area, and storing the deleted voice message memory in a second memory area.

As discussed above, Checchio discloses that upon deletion, a voice message is permanently deleted. Moving a voice message to a second memory area upon saving is NOT moving a voice message to a second memory area upon deletion, as recited by claims 12-14.

A benefit of saving a voice message even upon deletion is, e.g., allowing review of accidentally erased voice messages. Checchio fails to cure this problem. According to Checchio, messages that are instructed to be deleted are, in fact permanently deleted. The messages are not saved contrary to a delete instruction as in the present application.

In other words, the cited prior art voice messaging systems, upon deletion voice messages are deleted permanently. Any accidental deletion of a voice message does not allow later review of the voice message. Applicants' invention allows accidentally erased messages, upon deletion, to be nevertheless recovered from a second memory area. Since the voice message

still remains on the voice messaging system even after deletion, a user has a chance to review an accidentally deleted voice message. Such a benefit is not possible and not foreseen by the cited prior art.

It is respectfully submitted that not only does this rejection fail on its face, and thus is improper, but also in light of the above comments its clear that Checchio does not anticipate any of claims 1-3, 12-14 22 and 23. Thus, the rejection of claims 1-3, 12-14 22 and 23 under 35 U.S.C. § 102(e) is improper and should be reversed.

(B) Claims 4, 6, 15-18 and 24 are not obvious under 35 U.S.C. § 103(a) over Checchio in view of Pickett

The arguments put forth in the immediately preceding section of this Appeal Brief relating to the rejection of claims 1-3, 12-14 22 and 23 over Checchio is explicitly incorporated by reference into this section of this Appeal Brief.

Claims 4, 6, 15-18 and 24 are dependent on claims 1, 12 and 22 respectively, and are allowable for at least the same reasons as claims 1, 12 and 22.

Rejected claims 4 and 6 require that upon deletion of a voice message from voice message memory, the voice message is moved and restored in deleted voice message memory. Rejected claims 12-14 require removing a deleted voice message, upon deletion from a first memory area, and storing the deleted voice message memory in a second memory area. Rejected claim 24 requires removing a deleted voice message, upon deletion, from a first memory area, and a means for storing the deleted voice message in a deleted voice message memory.

As discussed herein above, Checchio fails to disclose, teach or suggest that upon deletion a voice message is moved to a deleted voice message memory and a second memory area, as recited by claims 4, 6, 15-18 and 24.

The Office Action relies on Pickett to allegedly make up for the deficiencies in Checchio to arrive at the claimed invention. The Applicants respectfully disagree.

Pickett appears to disclose a system in which voice/data communications may occur in multiple modes/protocols (Abstract). Various pieces of information, i.e., the status and operation of a communications system, are retained for a predetermined period of time and then purged (Pickett, col. 53, lines 37-43; lines 50-63).

Pickett discloses status and operational data is permanently deleted after a predetermined period of time. Permanently deleting operational data is **NOT** moving a voice message to a deleted voice message memory and a second memory area upon deletion, as recited by claims 4, 6, 15-18 and 24.

Neither Checchio nor Pickett, either alone or in combination, disclose, teach or suggest that upon deletion a voice message is moved to a deleted voice message memory and a second memory area, as recited by claims 4, 6, 15-18 and 24.

It is respectfully submitted that not only does this rejection fail on its face, but in view of the above comments its clear that claims 4, 6, 15-18 and 24 are not rendered obvious over Checchio in view of Pickett. Thus, the rejection of claims 4, 6, 15-18 and 24 under 35 U.S.C. § 103(a) over Checchio in view of Pickett is improper and should be reversed.

(C) Claim 5 is not obvious under 35 U.S.C. § 103(a) over Checchio in view of Pickett and Sato

The arguments put forth in the immediately preceding section of this Appeal Brief relating to the rejection of claims 4, 6, 15-18 and 24 over Checchio in view of Pickett is explicitly incorporated by reference into this section of this Appeal Brief.

Claim 5 is dependent on claim 1, and is allowable for at least the same reasons as claim 1.

Rejected claim 5 requires that upon deletion of a voice message from voice message memory, the voice message is moved and restored in deleted voice message memory.

As discussed herein above, neither Checchio nor Pickett disclose, teach or suggest that upon deletion a voice message is moved to a deleted voice message memory, as recited by claim 5.

The Office Action relies on Sato to allegedly make up for the deficiencies in Checchio and Pickett to arrive at the claimed invention. The Applicants respectfully disagree.

Sato appears to disclose a voice message stored in a voice message memory (Abstract). When a time limit is met, a voice messaging system dials a telephone and gives a called party an option to delete the message (Sato, paragraphs 0015-0018).

Sato discloses giving a called party an option to permanently a message. The message is permanently deleted **NOT** moved to a deleted voice message memory, as recited by claim 5.

Neither Checchio, Pickett nor Sato, either alone or in combination, disclose, teach or suggest that upon deletion of a voice message from voice message memory, the voice message is moved and restored in deleted voice message memory, as recited by claim 5.

It is respectfully submitted that not only does this rejection fail on its face, but in view of the above comments its clear that claim 5 is not rendered obvious over Checchio in view of Pickett, and further in view of Sato. Thus, the rejection of claim 5 under 35 U.S.C. § 103(a) over Checchio in view of Pickett, and further in view of Sato is improper and should be reversed.

(D) Claims 7-9, 19, 20, 25 and 26 are not obvious under 35 U.S.C. § 103(a) over Checchio in view of Pickett and Garson

The arguments put forth in preceding section (B) of this Appeal Brief relating to the rejection of claims 4, 6, 15-18 and 24 over Checchio in view

of Pickett is explicitly incorporated by reference into this section of this Appeal Brief.

Claims 7-9, 19, 20, 25 and 26 are dependent on claims 1, 12 and 22 respectively, and are allowable for at least the same reasons as claims 1, 12 and 22.

Rejected claims 7-9 require that upon deletion of a voice message from voice message memory, the voice message is moved and restored in deleted voice message memory. Rejected claims 19 and 20 require removing a deleted voice message, upon deletion from a first memory area, and storing the deleted voice message memory in a second memory area. Rejected claims 25 and 26 recite require a means for removing a deleted voice message, upon deletion, from a first memory area, and a means for storing the deleted voice message in a deleted voice message memory.

As discussed herein above, neither Checchio nor Pickett disclose, teach or suggest moving a voice message to a deleted voice message memory and a second memory area upon deletion, as recited by claims 7-9, 19, 20, 25 and 26.

The Office Action relies on Garson to allegedly make up for the deficiencies in Checchio and Pickett to arrive at the claimed invention. The Applicants respectfully disagree.

Garson appears to disclose a call-detail-report in a delete queue that is deleted after it reaches its limit by percentage of memory or by number of records (col. 16, lines 23-32).

Garson discloses a delete queue containing a call-detail-report. Garson fails to disclose a novel method and apparatus for handling a deleted voice message, much less a voice message that, upon deletion, is moved to a deleted voice message memory and a second memory area, as recited by claims 7-9, 19, 20, 25 and 26.

Neither Checchio, Pickett nor Garson, either alone or in combination, disclose, teach or suggest a voice message that, upon deletion, is

moved to a deleted voice message memory and a second memory area, as recited by claims 7-9, 19, 20, 25 and 26.

It is respectfully submitted that not only does this rejection fail on its face, but in view of the above comments its clear that claims 7-9, 19, 20, 25 and 26 are not rendered obvious over Checchio in view of Pickett, and further in view of Garson. Thus, the rejection of claims 7-9, 19, 20, 25 and 26 under 35 U.S.C. § 103(a) over Checchio in view of Pickett, and further in view of Gaarson is improper and should be reversed.

(E) Claims 10, 11, 21 and 27 are not obvious under 35 U.S.C. § 103(a) over Checchio in view of Newton

The arguments put forth in preceding section (A) of this Appeal Brief relating to the rejection of claims 1-3, 12-14 22 and 23 over Checchio is explicitly incorporated by reference into this section of this Appeal Brief.

Claims 10, 11, 21 and 27 are dependent on claims 1, 12 and 22 respectively, and are allowable for at least the same reasons as claims 1, 12 and 22.

Rejected claims 10 and 11 require that upon deletion of a voice message from voice message memory, the voice message is moved and restored in deleted voice message memory. Rejected claim 21 requires removing a deleted voice message, upon deletion from a first memory area, and storing the deleted voice message memory in a second memory area. Rejected claim 27 requires a means for removing a deleted voice message, upon deletion, from a first memory area, and a means for storing the deleted voice message in a deleted voice message memory.

As discussed herein above, Checchio fails to disclose, teach or suggest moving a voice message to a deleted voice message memory and a second memory area upon deletion, as recited by claims 10, 11, 21 and 27.

The Office Action relies on Newton to allegedly make up for the deficiencies in Checchio to arrive at the claimed invention. The Applicants respectfully disagree.

Newton appears to disclose a voice messaging system that compresses voice messages as voice memory fills (Abstract). While memory utilization is low, messages can be maintained in memory using a high voice quality, low compression ration (Newton, Abstract). As memory utilization is shrunk due to the storage of more messages, previously stored or other selected voice messages are re-compressed at a higher compression ratio (Newton, Abstract).

Newton discloses varying a compression ratio for stored voice messages in a voice messaging system. Newton fails to disclose, teach or suggest a novel method and apparatus for the handling of deleted voice messages, much less a voice message that, upon deletion, is moved to a second memory area or a deleted voice message memory, as recited by claims 10, 11, 21 and 27.

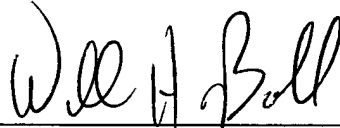
Neither Checchio nor Newton, either alone or in combination, disclose, teach or suggest a voice message that, upon deletion, is moved to a deleted voice message memory or a second memory area, as recited by claims 10, 11, 21 and 27.

It is respectfully submitted that not only does this rejection fail on its face, but in view of the above comments its clear that claims 10, 11, 21 and 27 are not rendered obvious over Checchio in view of Newton. Thus, the rejection of claims 10, 11, 21 and 27 under 35 U.S.C. § 103(a) over Checchio in view of Newton is improper and should be reversed.

CONCLUSION

For all the reasons set forth above, the rejections of claims 1-27 are improper and should be reversed. The Applicants therefore respectfully request that this Appeal be granted and that the rejections of the claims be reversed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William H. Bollman", written over a horizontal line.

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APPENDIX

CLAIMS INVOLVED IN THE APPEAL

1. A voice messaging system, comprising:
a controller;
a voice message memory; and
a deleted voice message memory;
wherein a voice message is initially stored in said voice message memory, and upon deletion of said voice message from said voice message memory, said voice message is moved and restored in said deleted voice message memory.
2. The voice messaging system according to claim 1, further comprising:
a telephone line interface over which said voice message is initially received by said voice messaging system.
3. The voice messaging system according to claim 1, wherein:
said voice message stored in said deleted voice message memory is retrievable for playback by a user.
4. The voice messaging system according to claim 1, wherein:
said voice message stored in said deleted voice message memory is removable from said deleted voice message memory to affect permanent deletion.
5. The voice messaging system according to claim 4, wherein:
said voice message is permanently deletable from said deleted voice message memory via input from a keypad.

6. The voice messaging system according to claim 4, wherein:
said voice message is removed from said deleted voice message memory and permanently deleted at a predetermined time interval.

7. The voice messaging system according to claim 4, wherein:
said voice message is removed from said deleted voice message memory upon reaching a predetermined number of voice messages being simultaneously stored in said deleted voice message memory.

8. The voice messaging system according to claim 7, wherein:
said removed voice message is an oldest stored voice message in said deleted voice message memory.

9. The voice messaging system according to claim 4, wherein:
said voice message is removed from said deleted voice message memory upon reaching a predetermined percentage use of a memory capacity of said deleted voice message memory.

10. The voice messaging system according to claim 1, wherein:
said voice message stored in said deleted voice message memory is compressed more than voice messages stored in said voice message memory.

11. The voice messaging system according to claim 1, wherein:
said voice message in said deleted voice message memory is compressed using a bit rate which is lower than a bit rate of voice messages stored in said voice message memory.

12. A method for managing a deleted voice message from a voice messaging system, comprising:

removing said deleted voice message, upon deletion from a first memory area, and storing said deleted voice message memory in a second memory area.

13. The method for managing a deleted voice message from a voice messaging system according to claim 12, further comprising:

retrieving said deleted voice message from said deleted voice message memory for playback.

14. The method for managing a deleted voice message from a voice messaging system according to claim 12, further comprising:

inputting a predetermined code via a keypad for retrieving said deleted voice message from said deleted voice message memory.

15. The method for managing a deleted voice message from a voice messaging system according to claim 12, further comprising:

permanently deleting a voice message by removing said voice message stored in said deleted voice message memory.

16. The method for managing a deleted voice message from a voice messaging system according to claim 15, wherein:

said permanent deletion occurs automatically based on a predetermined condition.

17. The method for managing a deleted voice message from a voice messaging system according to claim 16, wherein:

said predetermined condition corresponds to a predetermined time interval.

18. The method for managing a deleted voice message from a voice messaging system according to claim 16, wherein:

said predetermined condition corresponds to a length of time after said deleted voice message is stored in said deleted voice message memory.

19. The method for managing a deleted voice message from a voice messaging system according to claim 15, further comprising:

removing said voice message from said deleted voice message memory upon reaching a predetermined number of voice messages simultaneously stored in said deleted voice message memory.

20. The method for managing a deleted voice message from a voice messaging system according to claim 15, further comprising:

removing said voice message from said deleted voice message memory upon reaching a predetermined percentage of a memory capacity of said deleted voice message memory.

21. The method for managing a deleted voice message from a voice messaging system according to claim 12, further comprising:

compressing said deleted voice message, after storage in said voice message memory, for storage in said deleted voice message memory.

22. Apparatus for retrieving a deleted voice message from a voice messaging system, comprising:

means for removing said deleted voice message, upon deletion, from a first memory area;

means for storing said deleted voice message in a deleted voice message memory; and

means for retrieving said deleted voice message from said deleted voice message memory for playback.

23. The apparatus for retrieving a deleted voice message from a voice messaging system according to claim 22, further comprising:

means for inputting a predetermined code via a keypad for retrieving said deleted voice message from said deleted voice message memory.

24. The apparatus for retrieving a deleted voice message from a voice messaging system according to claim 22, further comprising:

means for permanently deleting said voice message by removing said voice message stored in said deleted voice message memory.

25. The apparatus for retrieving a deleted voice message from a voice messaging system according to claim 22, further comprising:

means for removing said voice message from said deleted voice message memory upon reaching a predetermined number of voice messages simultaneously stored in said deleted voice message memory.

26. The apparatus for retrieving a deleted voice message from a voice messaging system according to claim 22, further comprising:

means for removing said voice message from said deleted voice message memory upon reaching a predetermined percentage of a memory capacity of said deleted voice message memory.

27. The apparatus for retrieving a deleted voice message from a voice messaging system according to claim 22, further comprising:

means for compressing said deleted voice message, after storage in said voice message memory, for storage in said deleted voice message memory.